



## **Tenants Services Authority (TSA)**

### **A new regulatory framework for social housing in England: A statutory consultation**

#### **Summary paper 1: Overview of the new regulatory framework**

**“Equipping the profession for today and tomorrow”**

**November 2009**

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This is the first summary paper in a series of three which summarises the new regulatory framework for social housing in England published by the Tenant Services Authority (TSA) on 12<sup>th</sup> November 2009.

Other briefings include:

- Summary paper two: National and local standards
- Summary paper three: Regulation in practice.

### **Key messages from summary paper 1**

- The TSA does not propose to introduce any supporting codes of practice from 1<sup>st</sup> April 2010. The primary focus of providers is to be on their tenants, not on overly prescriptive regulatory arrangements. If any codes are to be developed in the future, this will be done in a co-regulatory way with stakeholders
- Equality and diversity principles and approaches to tenants with care and support needs will be applied across the whole standards framework
- Local standards should be agreed between tenants and providers and should strengthen national standards and tailor them to local priorities
- All providers with more than 1,000 properties will be required to publish, no later than 1<sup>st</sup> October 2010, an annual report on standards which sets out how they already meet, or how they plan to meet, each of the national standards
- As part of the annual report, all providers will need to set out their plans for consulting tenants on the need for local standards, and for developing and establishing them by 1<sup>st</sup> April 2011
- The TSA will focus resources in it's first year on identifying and addressing the worst performing providers.

### **An introduction to the new regulatory framework**

A range of guiding principles underpin the TSA's approach to regulation. These include their objectives as set out in the Housing and Regeneration Act 2008 and their powers to establish and implement mechanisms for effective regulation. These include:

- The setting of clear standards
- The application of the framework across all providers
- A range of enforcement and monitoring powers. These are dealt with in more detail in summary paper 3.

### **A new register for providers**

- The new register will begin on 1<sup>st</sup> April 2010 and existing and all local authority providers will be automatically placed on it.
- The new registration system is different from the existing one in the following respects:
  - It is designed to encourage new entrants to the market and does not place any restriction on the types of provider who can apply
  - Any applicant that meets the eligibility and registration criteria must be registered
  - Organisations that want to obtain funding from the HCA in order to develop and manage low cost rental housing must be registered with the TSA when the property is let.

ALMOs will not be registered unless they own stock and are providers in their own right.

## **The TSA's vision for co-regulation**

As made clear in the June discussion paper and widely supported in the sector, the TSA intends to operate a co-regulatory approach. This means a balance between direct regulation by the TSA and self-regulation by landlords. It is underpinned by the need to ensure that providers and tenants can operate in a flexible way that is not constrained by central direction from TSA.

The key ingredients of co-regulation are:

- Outcome-focused, non-prescriptive national standards supported by locally agreed standards
- Strong governance
- Evidence-based self-assessment which is subject to tenant scrutiny, supported by external validation, independent audit and peer review
- Transparent performance information
- Responsibility on providers to self-improve where appropriate.

## **Reducing burdens**

The TSA aims to reduce regulatory burdens where possible by:

- Avoiding prescriptive processes
- Keeping codes of practice to a minimum if they are to be developed after 1 April 2010
- Removing all previous Housing Corporation requirements (Regulatory Code and Guidance, circulars and good practice notes)
- Using general consents for disposal of stock where appropriate.

## **Local standards pilots**

37 local pilots are currently working to develop, test and refine a variety of approaches to setting local standards across the range of national indicators. Lessons from the pilots will help to support the wider roll out and development of local standards by 1<sup>st</sup> April 2011.

## **Ten principles to shape regulation**

The document sets out the ten key principles which will shape the new regulatory framework. These principles have been modified following feedback on the initial proposals set out in the TSA's June discussion paper.

There are new principles in relation to:

- Supporting sector-led improvement and self-improvement
- Focusing resources on identifying and addressing the worst performing providers, where tenants are being let down by a provider's performance
- Registration criteria
- Demonstrating how providers have taken into account needs of tenants across the six diversity groups.

## **The TSA's approach to setting national and local standards**

This section is an overview of the TSA's approach to setting national and local standards. See summary paper 2.

## **TSA's general approach to regulation of local authorities**

The TSA will regulate all providers from 1<sup>st</sup> April 2010 and whilst the new regulatory framework will be applied consistently to all providers there are some important differences between housing associations and local authorities.

The main difference is that the TSA does not have the power to regulate local authorities' governance and viability, the responsibility for which remains with the Audit Commission. However, should the TSA become aware of local authority financial matters that give rise to concern, it will refer these to the Audit Commission and the appropriate Government Office and it will work with them to resolve the problem.

Another key difference is that not all of the TSA's enforcement powers will apply to local authorities, such as fines and compensations. Some will apply only to local authorities, such as the appointment of an adviser.

## **The Local Government Performance Framework**

The TSA will support the principles of the Local Government Performance Framework in its regulation of local authority providers.

The TSA will collect information from local authorities to assess compliance with the standards framework, including:

- Annual self-assessment statements against national and local standards
- Accreditation schemes and external validation outcomes
- Relevant National Indicator Set data
- Tenant feedback and resident petitions, and
- Any cases reported to the Local Government Ombudsman.

## **ALMOs**

ALMOs that do not own stock will not be registered under the 2008 Act and the responsibility for meeting the standards will be the provider local authority. The TSA is, however, keen to develop a clear understanding with key stakeholders as to how regulatory arrangements might work with ALMOs.

## **Audit Commission and Comprehensive Area Assessment**

The TSA and Audit Commission will work to develop the basis on which the Audit Commission's Comprehensive Area Assessment (CAA) judgement on the social housing element is made. The intention is that area-based judgements will include all types of provider and how they support local authorities in their strategic housing role.